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SYLVIA LUKE  
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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA  
Office of Conservation and Coastal Lands  
P.O. BOX 621  
HONOLULU, HAWAII 96809

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF: OCCL: TF

CDUA: HA-3921

Acceptance Date: July 3, 2023

180-day Exp. Date: December 30, 2023

James M. Leonard  
JM Leonard Planning, LLC  
56 Laukona Street  
Hilo, HI 96720

Jun 27, 2023

Dear Mr. Leonard:

**NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL DETERMINATION**  
Conservation District Use Application (CDUA) HA-3921  
(BOARD Permit)

This acknowledges the receipt and acceptance for the processing of your clients' CDUA for a proposed Single-Family Residence, Landscaping, and related improvements located at Government Beach Road, Waawaa Subdivision, Waawaa, Puna, Island of Hawaii, Tax Map Key (TMK): (3) 1-4-028:005. The subject property is approximately 0.327-acres and lies in the Resource Subzone of the State Land Use Conservation District.

The applicants are proposing to construct an approximately 2,102 sq. ft single-story post-on-pier single-family residence consisting of 2 bedrooms, 1 bathroom, a kitchen, living room area, laundry room, lanai, and single-car garage. A roof-mounted photovoltaic system; solar water heating panels; rainfall water catchment and storage tank; propane gas and storage tank for cooking, backup water heating, and electric power; a gravel driveway; fencing and a driveway gate on the mauka portion of the property to provide access off Government Beach Road; and an individual wastewater system are also proposed to support the residence. Additionally, the applicants are proposing to replace hala trees that are removed for the siting of the proposed driveway and single-family residence in an equal or greater amount to the hala trees that are removed as well as remove and replace invasive trees on the property with hala trees or naupaka vegetation.

After reviewing the application, the Department finds that:



1. The proposed uses are identified land uses in the Resource Subzone of the Conservation District, pursuant to Hawaii Administrative Rules (HAR), §13-5-23 L-2 **LANDSCAPING** (D-1) Landscaping (including clearing, grubbing, grading and tree removal), including chemical and mechanical control methods, in accordance with state and federal laws and regulations, in an area of or more than 10,000 square feet. Any replanting shall be appropriate to the site location and shall give preference to plant material that are endemic or indigenous to Hawaii. The introduction of invasive plant species is prohibited; and HAR, §13-5-24 R-7 **SINGLE FAMILY RESIDENCE** (D-1) A single family residence that conforms to design standards as outlined in Chapter 13-5, HAR. Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to HAR, §13-5-40, a Public Hearing will not be required;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200.1, HAR, a finding of no significant impact to the environment (FONSI) is anticipated for the proposed project; and,
4. The subject area is within the Special Management Area (SMA). The applicant's responsibility includes complying with the provisions of Hawaii's Coastal Zone Management law (Chapter 205A, HRS) that pertain to the Special Management Area (SMA) requirements administered by the various counties. Negative action on this application can be expected should you fail to obtain and provide us, one of the following:
  - An official determination that the proposal is exempt from the provisions of the county rules relating to the SMA;
  - An official determination that the proposed development is outside the SMA; or,
  - An SMA Use Permit for the proposed development.

Further, the OCCL offers the following comments on the CDUA and the Draft Environmental Assessment (EA):

- Reese Single-Family Residence Site and Floor Plan. Please clarify what the dotted line is around the dwelling and its measurements from the structure, and whether it extends into the 15ft setback. Please note that the allowable building area in a lot of this size is 36in in the 15ft setback and update the Site and Floor Plan with these clarifications.
- In the Reese Single-Family Residence Floor Plan, what are the measurements (sq. ft) for the interior spaces (Bedrooms #1 & #2, laundry, kitchen, bath, etc.) and other Maximum Developable Area (MDA) related structures under roof? Please clarify the area between BEDROOM #2 and BATH and identify its measurement in relation to the dwelling's 968 sq. ft tabulation. Please update the Floor Plan to include these measurements.
- In the Reese Single-Family Residence Elevation Drawings, please clarify the proposed height of the dwelling measured from the lowest point of the foundation to the highest



point of the roof or any extension thereof. The dwelling appears taller than ~15ft noted in the application.

- Please provide a schematic or proposed drawings for the Government Road gate and fence, rooftop solar for electric and battery storage and water heating, 10,000-gallon rain catchment water tank, and propane tank.
- Generally speaking, setbacks are for access/emergency access, greenery, buffer from neighbors, etc. Have the landowners and their agents considered alternative sites for the proposed propane tank on the property instead of in the setback? If so, please identify the alternative sites outside of the setback areas considered.
- Please identify the distance (setback) of the proposed dwelling from the makai property boundary of parcel 005.
- The CDUA states that the amount of hala trees removed for the siting of the home will be replaced with an equal or greater amount of new hala plantings. According to the Landscape Plan, it appears more trees will be removed than will be replanted. Please clarify and check your numbers. Additionally, attached plans should accurately reflect what is being proposed.
- Geologic Hazards – the CDUA and Draft EA states the property is in Lava Zone 2 but the erosion study states it is in Zone 3. Please clarify.
- Tsunami – the CDUA states: *the proposed homes site is located ... and completely outside the area affected by ... tsunami inundation.* According to the HI-EMA website: <https://dod.hawaii.gov/hiema/public-resources/tsunami-evacuation-zone/>, it appears the property is located in a tsunami evacuation zone. It appears the coastal erosion study also notes this contrary to this statement in the CDUA and the Draft EA. Please clarify.
- In SINGLE FAMILY RESIDENTIAL STANDARDS and Size of Lot Table of the CDUA, it says the lot is 14,244 sq. ft, but according to the County's real property website (<https://hawaiipropertytax.com/>) parcel 005 is 14,242 sq. ft. Please clarify.
- In the Draft EA, it states that the Determining Agency is DLNR and OCCL. OCCL notes that you and your clients are filing a CDUA for a Board permit; and thus, the determining/approving agency is the Board of Land and Natural Resources (BLNR). Please correct.
- The CDUA and Draft EA reference different numbers or calculations when describing the total developable area of the single-family residence. Please clarify and be consistent in describing the project and its components throughout the CDUA, Draft EA, and its attachments.

This CDUA will be submitted to the Board of Land and Natural Resources for their consideration after all reviews and evaluations of the proposal have been made. Should you have any



questions, please contact Trevor Fitzpatrick of our Office of Conservation and Coastal Land at (808) 798-6660 or [trevor.j.fitzpatrick@hawaii.gov](mailto:trevor.j.fitzpatrick@hawaii.gov).

Sincerely,



Dawn N. S. Chang, Chairperson  
Board of Land and Natural Resources

MC

c: Hawaii Board Member  
CWRM/HDLO/DAR/DOFAW/NAH/ENG/DOCARE/OHA/DOH/ERP  
DLNR – Aha Moku  
County of Hawaii, Department of Planning  
Hawaii Fire Department  
Pahoa Public Library  
Malama O Puna